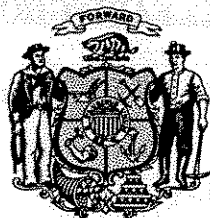


## WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

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FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 01-004**

AN ORDER to create ATCP 48.49 and subchapter IX of chapter ATCP 48; and to amend subchapter VII (title) of chapter ATCP 48, relating to drainage district finances and grants to county drainage boards.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

01-26-01 RECEIVED BY LEGISLATIVE COUNCIL.  
02-22-01 REPORT SENT TO AGENCY.

RNS:MCP;jal;wu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

## 1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES NO 

## 2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES NO 

## 3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES NO 4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached

YES NO 

## 5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES NO 6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES NO 

## 7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

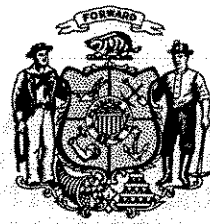
YES NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

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## CLEARINGHOUSE RULE 01-004

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

The rule references forms in s. ATCP 48.60 (2) (h) and (6) (b). The department should comply with s. 227.14 (3), Stats., with respect to these forms.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

A procedure for making a check jointly payable is provided under s. 48.60 (6) (c), Stats., but the rule does not indicate how the choice to make the check payable jointly is to be made.

DATCP Docket  
Number 99-R-9

Proposed Hearing Draft  
November 21, 2000

**PROPOSED ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND  
CONSUMER PROTECTION  
ADOPTING RULES**

- 1 The state of Wisconsin department of agriculture, trade and consumer protection
- 2 proposes the following order to create ATCP 48.49 and ATCP 48 subch. IX; and to
- 3 amend ATCP 48 subch. VII (title); relating to drainage district finances and grants to
- 4 county drainage boards.

---

**Analysis Prepared by the Department of  
Agriculture, Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 88.11 and 88.15(2), Wis. Stats.  
Statute Interpreted: ss. 88.15 and 88.18, Stats.

In the 1999-2001 biennial budget act (1999 Wis. Act 9), the Legislature created a state grant program to help county drainage boards comply with new legal requirements related to drainage districts. This rule implements that grant program. This rule also clarifies that county drainage boards must keep their drainage district accounts with the county treasurer.

**Background**

Drainage districts are special purpose districts formed to drain land, primarily for agricultural purposes. Drainage districts control the flow of water in large areas of the state, and have a major impact on agriculture, land use and the environment. Some districts have been in existence since the 1880s. There are approximately 199 drainage districts located in 30 counties.

A county drainage board oversees all the drainage districts within each county. The Wisconsin department of agriculture, trade and consumer protection (DATCP) helps county drainage boards comply with state drainage laws, ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code.

## **County Drainage Board Accounts**

According to s. 88.18, Stats., the county treasurer must serve as treasurer of all drainage districts under the jurisdiction of the county drainage board. The county treasurer may deduct a portion of the interest earned on county drainage board accounts, to cover relevant costs incurred by the county treasurer and county zoning administrator. The county drainage board may appoint its own treasurer, who serves as deputy county treasurer. This rule clarifies the handling of county drainage board funds, to ensure proper documentation and accountability.

### **Rule Contents**

#### **Grants to County Drainage Boards; General**

Under this rule, DATCP may award grants to county drainage boards to help them comply with ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code. A grant may pay a county drainage board for up to 60 percent of the drainage board's costs to do any of the following:

- Develop and adopt drainage district specifications (map sets).
- Reassess benefits in a drainage district.
- Develop and adopt drainage district maintenance plans. (Grants do not pay for actual maintenance costs.)
- Carry out other eligible projects identified in DATCP's annual request for grant proposals.

#### **Annual Request for Grant Proposals**

Under this rule, DATCP must annually request grant proposals from county drainage boards. DATCP must issue its annual request, in writing, to each county drainage board. The request must include all the following:

- The amount of grant funds available for distribution in the grant year. Each grant year ends on June 30.
- The types of projects for which county drainage boards may request funding.
- DATCP's grant priorities, if any.
- General grant terms and conditions that may affect grant applications.
- Grant application procedures.
- A grant application deadline.
- A grant application form.

#### **Grant Applications**

To apply for a grant, a county drainage board must submit a completed grant application form that includes all the following:



1 drainage board or any drainage district. The drainage board treasurer may not pay out  
2 any funds before depositing them with the county treasurer.

3 (c) The drainage board treasurer may not pay out any funds without proper  
4 written authorization from the county drainage board and the county treasurer. The  
5 drainage board treasurer shall file, with the county treasurer, copies of all payment  
6 authorizations received from the county drainage board. The county treasurer may not  
7 refuse to authorize a payment authorized by the county drainage board, unless there are  
8 insufficient funds in the drainage district account to make that payment.

9 (d) The county treasurer shall keep all of the drainage board accounting records  
10 required under subs. (3) to (5), notwithstanding the appointment of a drainage board  
11 treasurer. The drainage board treasurer shall file, with the county treasurer, all records  
12 required under subs. (1) to (5). The drainage board treasurer may keep duplicate copies  
13 of those records.

14 **SECTION 3.** Subchapter IX of chapter ATCP 48 is created to read:

15 **SUBCHAPTER IX**

16 **GRANTS TO COUNTY DRAINAGE BOARDS**

17 **ATCP 48.60 Grants to county drainage boards.** (1) **GENERAL.** From the  
18 appropriation under s. 20.115(7)(d), Stats., the department may award grants to county  
19 drainage boards to help those boards comply with ch. 88, Stats., and this chapter. The  
20 department shall award grants in each state fiscal year, subject to available funding. A  
21 grant may reimburse a county drainage board for up to 60 percent of the drainage board's  
22 costs to do any of the following:

DATE form?  
cl 227 reg.?  
227.14(B)

1 (h) A grant application form.

2 (3) GRANT APPLICATIONS. A county drainage board may apply for a grant under  
3 sub. (1). The county drainage board shall make the grant application on a form that the  
4 department provides under sub. (2)(h). The grant application shall be broken down by  
5 drainage district, and shall include all the following:

6 (a) A description of each drainage district project for which the county drainage  
7 board seeks a grant.

8 (b) The estimated cost of the project.

9 (c) The county drainage board's plan for financing the project.

10 (d) Competitive bidding or other procedures that the county drainage board will  
11 use to control project costs.

12 **NOTE:** A county drainage board is not required to select the low bidder for a  
13 funded project. But the department may make its grant award and  
14 payments based on the low bid cost.

15 (e) Other information required by the department.

16 (4) GRANT AWARDS. Within 90 days after the grant application deadline under  
17 sub. (2)(g), the department shall make its grant awards. The department shall give notice  
18 of its awards to all county drainage boards that applied for grants.

19 (5) GRANT CONTRACTS. Before the department pays any grant funds to a county  
20 drainage board, the department shall enter into a grant contract with that county drainage  
21 board. The contract shall specify the time period and other terms and conditions of the  
22 grant. The department shall make grant payments according to sub. (6) and the grant  
23 contract.  
24



STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

NOTICE OF HEARING

RULES RELATING TO COUNTY DRAINAGE BOARD GRANTS AND THE ROLE  
OF THE COUNTY TREASURER

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on the proposed revisions to rule, chapter ATCP 48, relating to drainage district finances and grants to county drainage boards. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rules. Following the public hearings, the hearing record will remain open until March 30, 2001, for additional written comments.

A copy of this rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, by calling 608-224-4627 or by sending a faxed request to 608-224-4615. Copies will also be available at the hearing location.

For the hearing or visually impaired, non-English speaking, or for those with other personal circumstances which might make communication at the hearing difficult, this agency will, to the maximum extent possible, provide aids including an interpreter, or a non-English, large print or taped version of hearing documents. Please contact the address or phone number listed above or the TDD telephone at 608-224-5058 as soon as possible. The hearing locations are handicap accessible.

The following two hearings are scheduled:

Tuesday, February 27, 2001, 7:00 PM until 9:00 PM  
Outagamie County Highway Department  
1313 Holland Road  
Appleton, WI

Wednesday, February 28, 2001, 7:00 PM until 9:00 PM  
Jefferson County Courthouse  
307 Main Street, Room 202  
Jefferson, WI

**Analysis Prepared by the Department of  
Agriculture, Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 88.11 and 88.15(2), Wis. Stats.  
Statute Interpreted: ss. 88.15 and 88.18, Stats.

In the 1999-2001 biennial budget act (1999 Wis. Act 9), the Legislature created a state grant program to help county drainage boards comply with new legal requirements related to drainage districts. This rule implements that grant program. This rule also clarifies that county drainage boards must keep their drainage district accounts with the county treasurer.

**Background**

Drainage districts are special purpose districts formed to drain land, primarily for agricultural purposes. Drainage districts control the flow of water in large areas of the state, and have a major impact on agriculture, land use and the environment. Some districts have been in existence since the 1880s. There are approximately 199 drainage districts located in 30 counties.

A county drainage board oversees all the drainage districts within each county. The Wisconsin department of agriculture, trade and consumer protection (DATCP) helps county drainage boards comply with state drainage laws, ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code.

When a drainage district is created, the circuit court approves drainage district specifications that determine the rights and responsibilities of affected landowners. But many old drainage specifications are unclear, and some have been lost or destroyed. A lack of clear specifications can lead to costly problems and legal disputes.

**New Legal Requirements**

Recent law changes require county drainage boards to update the specifications for all drainage districts. For each drainage district, a county drainage board must create a professional quality map set showing drainage district boundaries, drain alignments, drain cross-sections and drain grade profiles. Drainage boards must also develop plans to maintain drainage districts according to the updated specifications.

County drainage boards must assess drainage district landowners in order to pay for drainage district specifications, maintenance plans and other costs. Drainage boards must assess costs according to the benefits that landowners derive from the drainage district. In order to assess costs fairly, some county drainage boards may need to modernize their outdated assessments of landowner benefits.

### **Grant Program**

In the 1999-2001 biennial budget act, the Legislature provided grant funds to help county drainage boards meet their new legal responsibilities. The Legislature provided \$500,000 for the state fiscal year ending June 30, 2001, with a possibility of continued annual appropriations until June 30, 2006. From these appropriations, DATCP may award grants for 60% of eligible drainage board costs.

### **Initial Grants**

On September 15, 2000, DATCP awarded drainage board grants for the state fiscal year ending June 30, 2001. DATCP offered a total of just over \$450,000 to 12 county drainage boards. DATCP awarded grants for the following types of projects, in descending priority order:

- Drainage specifications (map sets).
- Drainage benefit reassessments.
- Drainage district maintenance plans.

If the Legislature continues to appropriate funds, DATCP will continue to award drainage board grants in future fiscal years. This rule establishes standards and procedures for the grant program.

### **County Drainage Board Accounts**

According to s. 88.18, Stats., the county treasurer must serve as treasurer of all drainage districts under the jurisdiction of the county drainage board. The county treasurer may deduct a portion of the interest earned on county drainage board accounts, to cover relevant costs incurred by the county treasurer and county zoning administrator. The county drainage board may appoint its own treasurer, who serves as deputy county treasurer. This rule clarifies the handling of county drainage board funds, to ensure proper documentation and accountability.

## **Rule Contents**

### **Grants to County Drainage Boards; General**

Under this rule, DATCP may award grants to county drainage boards to help them comply with ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code. A grant may pay a county drainage board for up to 60 percent of the drainage board's costs to do any of the following:

- Develop and adopt drainage district specifications (map sets).
- Reassess benefits in a drainage district.
- Develop and adopt drainage district maintenance plans. (Grants do not pay for actual maintenance costs.)
- Carry out other eligible projects identified in DATCP's annual request for grant proposals.

### **Annual Request for Grant Proposals**

Under this rule, DATCP must annually request grant proposals from county drainage boards. DATCP must issue its annual request, in writing, to each county drainage board. The request must include all the following:

- The amount of grant funds available for distribution in the grant year. Each grant year ends on June 30.
- The types of projects for which county drainage boards may request funding.
- DATCP's grant priorities, if any.
- General grant terms and conditions that may affect grant applications.
- Grant application procedures.
- A grant application deadline.
- A grant application form.

### **Grant Applications**

To apply for a grant, a county drainage board must submit a completed grant application form that includes all the following:

- A description of the project for which the county drainage board seeks a grant.
- The estimated cost of the project.
- The county drainage board's plan for financing the project.
- Competitive bidding or other procedures that the county drainage board will use to control project costs.
- Other information required by DATCP.

### **Grant Awards**

Under this rule, DATCP must act on all grant applications within 90 days after the annual grant application deadline. DATCP must notify all grant applicants of its grant awards.

### **Grant Contracts**

Under this rule, DATCP must enter into a grant contract with each grant recipient. The contract must specify grant terms and conditions. DATCP must distribute grant funds according to the grant contract.

### **Grant Payments**

DATCP will make grant payments after the county drainage board documents that it has completed the funded project and paid its share of the project costs. DATCP will not pay any project costs incurred after the end of the grant term specified in the grant contract.

A county drainage board must submit a payment request on a form provided by DATCP. The county drainage board must document that it has completed the project and paid its share of the project costs.

DATCP will make grant payments to the county treasurer, for the benefit of the county drainage board. If the county drainage board hires an agent to complete a project on its behalf, DATCP may make a check jointly payable to the county treasurer and that agent.

#### **County Drainage Board Accounts**

Under this rule, whenever a person receives funds on behalf of a county drainage board or any drainage district, that person must promptly deposit those funds with the county treasurer. The county treasurer may not pay out any funds without proper authorization from the county drainage board.

Pursuant to s. 88.18(1), Stats., the county treasurer may retain a portion of the interest received on drainage district funds, to cover costs that the county treasurer and county zoning administrator incur to provide services to the county drainage board. The amount retained may not exceed the amount authorized by s. 88.18(1), Stats.

Under this rule, the county treasurer must keep a separate account for each drainage district. The county treasurer must keep complete accounting records in the county treasurer's office. The accounting records must include records of all receipts, deposits, payments, county deductions and account balances. The county drainage board must also file, with the county treasurer, a copy of every DATCP grant contract with the county drainage board.

The county treasurer must retain the accounting records as county records. Except as provided in ch. 88, Stats., or ch. ATCP 48, the county treasurer must treat the records as the treasurer would treat comparable county accounting records for retention and disposal purposes.

Under this rule, if a county drainage board appoints its own treasurer, that treasurer serves as a deputy of the county treasurer. The county drainage board treasurer must promptly deposit, with the county treasurer, all funds received on behalf of the county drainage board or any drainage district. The drainage board treasurer may not pay out any funds before depositing them with the county treasurer.

The drainage board treasurer may not pay out any funds without proper authorization from the county drainage board *and* the county treasurer. The county treasurer may not refuse to authorize a payment approved by the county drainage board, unless there are insufficient funds in the drainage district account to make that payment. The county treasurer must keep complete records of all drainage district accounts (the drainage board treasurer may keep duplicate records).

#### **Fiscal Estimate**

#### **Impact of Rule Revision to State Government**

Chapter ATCP 48 is administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). The proposed rule revisions codify a cost-share grant

program intended to distribute as much as \$500,000 per year for a maximum of six years to county drainage boards. Administration of these grants will be handled by existing DATCP staff. The DATCP will experience some increase in costs associated with WiSMART charges and other miscellaneous administrative expenses, such as postage; however, these administrative costs will be minimal and will be absorbed by the DATCP. Funds provided by the Legislature for this program are in a new general purpose revenue appropriation.

### **Impact of Rule Revision to County Drainage Boards**

Funds provided by the DATCP will go directly to county drainage boards to pay 60% cost-sharing for eligible expenses associated with the development of district specifications, benefits reassessment, and compliance (maintenance) plans. The availability of these funds will encourage drainage boards to proceed with this work as the grant funds greatly reduce the financial burden on drainage district landowners. District landowners will be assessed by the drainage board for the remaining 40% of eligible project expenses.

### **Initial Regulatory Flexibility Analysis**

#### **Scope of the Rule**

The proposed revision of Chapter ATCP 48, Wis. Adm. Code, will have a positive impact on small businesses. The revision codifies a newly instituted cost-share grant program designed to assist drainage boards with producing specific work products, which will in turn improve their management of drainage districts. It establishes the process and timelines for drainage boards to apply and receive grant funds. These funds are specifically intended to reduce the financial burden on drainage district landowners, as it is the landowners who finance compliance with existing rule requirements. Items that may be cost-shared include the development of:

1. District Specifications (including detailed maps)
2. Benefits Reassessments
3. Compliance (maintenance) Plans

The rule revision also establishes County Treasurers as the official treasurers for all drainage board financial matters. A drainage board may appoint a deputy treasurer to assist the County Treasurer with management of drainage board fiscal matters, but it is the county treasurer who is responsible for retention of all grants-related documents.

#### **Businesses Affected**

The small businesses affected by the rule revision include engineering consulting firms and others who will be hired by county drainage boards to produce the specific work products. Additionally, farms and agricultural food processors whose lands lie within the boundaries of drainage districts will benefit from the cost-sharing to be provided; as members of the drainage district, their financial burden will be reduced by 60 percent. It is estimated that there are 199 drainage districts located in 30 Wisconsin counties.

Currently, 24 counties have drainage boards in place. Only drainage boards may request grant funds from the department.

Fiscal Impact

Small businesses in drainage districts will experience a positive fiscal impact from this rule revision as drainage boards are provided financial assistance to comply with existing rule provisions. This rule revision provides up to \$500,000 per year for six years in cost-share assistance. Prior to this revision, small businesses located within drainage districts would have borne the entire cost of complying with ch. ATCP 48 requirements.

Prior to this revision, a very small percentage of drainage boards took the initiative to produce drainage district specifications and compliance (maintenance) plans required by ch. ATCP 48. Most drainage boards considered the cost of complying with the rule to be too great a burden on district landowners. It is anticipated that this cost-share assistance will greatly reduce that burden and, thereby, encourage greater compliance with the rule. It is estimated that this funding will allow about ten drainage boards to produce work products for a total of 40 districts each year. At this pace, it is anticipated that all districts may be assisted over the six-year life of the grants.

Record Keeping

The proposed rule revision will not impose any new record keeping requirements on small businesses. A few new record keeping requirements are required of county treasurers and drainage boards members.

Professional Skills Required to Comply

Small businesses will not need to acquire any new skills -- or retain additional professional services -- to comply with the rule revisions.

Dated this 26 day of Jan, 2001

**STATE OF WISCONSIN**

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

Ben Brancel

Ben Brancel  
Secretary



State of Wisconsin  
Scott McCallum, Governor

Department of Agriculture, Trade and Consumer Protection  
James E. Harsdorf, Secretary

**PUBLIC NOTICE**

**FINAL DRAFT RULE TO LEGISLATURE**

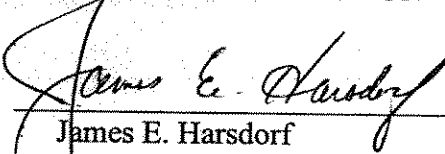
The Department of Agriculture, Trade and Consumer Protection announces that it is submitting the following rule for legislative committee review, pursuant to s. 227.19, Stats.:

CLEARINGHOUSE RULE #: 01 - 004  
SUBJECT: Grants to Drainage Boards  
ADM. CODE REFERENCE: ATCP 48  
DATCP DOCKET #: 99 - R - 9

Dated this 11 day of July, 2001

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION

By

  
James E. Harsdorf  
Secretary





State of Wisconsin  
Scott McCallum, Governor

**Department of Agriculture, Trade and Consumer Protection**

James E. Harsdorf, Secretary

DATE: July 11, 2001

TO: The Honorable Fred Risser  
President, Wisconsin State Senate  
Room 220 South, State Capitol  
Madison, WI 53707

The Honorable Scott Jensen  
Speaker, Wisconsin State Assembly  
Room 211 West, State Capitol  
Madison, WI 53708

FROM: James E. Harsdorf, Secretary  
Department of Agriculture, Trade and Consumer Protection

SUBJECT: **Drainage Board Grants; Final Draft Rule.**  
**(Clearinghouse Rule No. 01-004)**

The Department of Agriculture, Trade and Consumer Protection (DATCP) is transmitting this rule for legislative committee review, as provided in s. 227.19(2) and (3), Stats. DATCP will publish a notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19(2), Stats.

### Background

The Legislature authorized DATCP to award grants to county drainage boards. Grants help drainage boards comply with new legal requirements related to drainage districts. The new legal requirements are contained in ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code.

The Legislature created this grant program in the last biennial budget act (1999 Wis. Act 9), and appropriated \$500,000 for the fiscal year ending June 30, 2001. There is a possibility of continued annual funding until June 30, 2006. Section 88.15 (2), Stats., requires DATCP to adopt rules for the grant program.

### Rule Contents

This rule spells out the procedures that DATCP will use to allocate grants to county drainage boards. This rule also clarifies responsibilities related to the handling of drainage board funds.

### **Grants to County Drainage Boards; General**

Under this rule, DATCP may award grants to county drainage boards to help them comply with ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code. A grant may pay for up to 60 percent of the drainage board's costs to do any of the following:

- Develop and adopt drainage district specifications (map sets).
- Reassess benefits in a drainage district.
- Develop and adopt drainage district maintenance plans. (Grants do not pay for actual maintenance costs.)
- Carry out other eligible projects identified in DATCP's annual request for grant proposals.

### **Annual Request for Grant Proposals**

Under this rule, DATCP must issue an annual request for grant proposals. The request must include all the following:

- The amount of grant funds available for distribution in the grant year. Each grant year ends on June 30.
- The types of projects for which county drainage boards may request funding.
- DATCP's grant priorities, if any.
- General grant terms and conditions that may affect grant applications.
- Grant application procedures.
- A grant application deadline.
- A grant application form.

### **Grant Applications**

To apply for a grant, a county drainage board must submit a complete grant application form that includes all the following:

- A description of the project for which the county drainage board seeks a grant.
- The estimated cost of the project.
- The county drainage board's plan for financing the project.
- Competitive bidding or other procedures that the county drainage board will use to control project costs.
- Other information required by DATCP.

Under this rule, DATCP must act on all grant applications within 90 days after the annual grant application deadline. DATCP must notify all grant applicants of its grant awards.

### **Grant Contracts**

Under this rule, DATCP must enter into a grant contract with each grant recipient. The contract must specify grant terms and conditions. DATCP must distribute grant funds according to the grant contract.

### **Grant Payments**

DATCP will make grant payments to the county drainage board treasurer after the county drainage board completes the funded project and pays its share of the project costs. DATCP will not pay for any project costs incurred after the end of the grant term specified in the grant contract. A county drainage board may apply for continued funding in subsequent fiscal years.

A county drainage board must submit a payment request on a form provided by DATCP. The county drainage board must document that it has completed the project and paid its share of the project costs.

### **County Drainage Board Accounts**

This rule clarifies current law related to county drainage board accounts. According to ch. 88, Stats., the county treasurer serves as the county drainage board treasurer unless the drainage board appoints its own treasurer. The county treasurer may keep a portion of the interest received on drainage district funds to cover county costs.

If the county drainage board appoints its own treasurer, the appointed treasurer acts as the deputy of the county treasurer. The county drainage board may assign any or all of the county treasurer's duties to the appointed treasurer. This rule clarifies the duties of the county drainage board treasurer. It specifies that financial records must be kept in the office of the county treasurer, or in another place that the county treasurer approves in writing. Drainage board records are public records that are open to public inspection.

If the county drainage board appoints its own treasurer, the appointed treasurer must be bonded and the drainage board must establish the treasurer's compensation in writing. The county drainage board must also enter into a written agreement with the appointed treasurer and the county treasurer. The agreement must identify the duties that the county drainage board has assigned to the appointed treasurer, and the duties (if any) that remain with the county treasurer.

## **Treasurer Duties**

This rule spells out the duties of the county drainage board treasurer (either the county treasurer or the appointed treasurer, or both). The treasurer must keep county drainage board accounts. There must be a separate account for each drainage district.

The treasurer must deposit, to the appropriate account, all funds received on behalf of the county drainage board or any drainage district. A person who receives funds on behalf of the county drainage board or any drainage district must promptly deposit those funds with the treasurer.

No person may make any expenditure from a county drainage board account unless the treasurer signs the check or approves the expenditure in writing. The county drainage board must also approve the expenditure in writing.

The treasurer must keep complete and accurate accounting records, including records of all the following:

- Receipts and deposits.
- Expenditure authorizations and expenditures.
- Current account balances.
- Monthly and annual reports summarizing revenues and expenditures during the reporting period, and account balances at the beginning and end of the reporting period.
- Copies of all grant contracts that DATCP awards to the county drainage board.

The treasurer must keep all these records as county public records. The treasurer must treat the records as the county treasurer would treat comparable county accounting records for retention and disposal purposes. The records must be kept in the office of the county treasurer, or in another place that the county treasurer approves in writing, so that the records are available for public inspection and copying.

The treasurer must exercise sound fiscal control to prevent misappropriation or misdirection of funds. The treasurer must account for all funds received and expended, and must give periodic accountings to the county drainage board. The treasurer must make records and accounts available, upon request, for audit by the state of Wisconsin, the county drainage board and the county.

## **Hearings**

DATCP held public hearings on February 27 and 28, 2001, in Appleton and Jefferson. DATCP also accepted written comments until March 31, 2001. Six people attended the hearings or filed subsequent written comments:

- Two persons attended the hearings but expressed no opinions.
- Four persons offered oral and written comments at the hearings.
- Two persons submitted written comments after the hearings.

Of the 6 persons who commented on the rule, two favored the hearing draft. Four persons opposed hearing draft provisions related to the duties of the county drainage board treasurer. A hearing summary is attached.

### **Changes from Hearing Draft**

DATCP revised the final draft rule in response to hearing testimony. The final draft rule addresses hearing comments related to the role of the county drainage board treasurer. The final draft clarifies the relationship between the county treasurer and the treasurer appointed by the county drainage board. The final draft rule gives counties flexibility, but ensures public access and accountability.

Under the final draft rule, if the county drainage board appoints its own treasurer, the drainage board must enter into a written agreement with the county treasurer and the appointed treasurer. The agreement must spell out the division of the responsibilities between the county treasurer and the appointed treasurer. The final draft rule:

- Identifies the types of financial records that the treasurer must keep.
- Identifies financial control and audit responsibilities.
- Requires that drainage board financial records be kept in the county treasurer's office, or in another place approved by the county treasurer.
- Requires that drainage board records be made available for public inspection and copying upon request, pursuant to the Open Records Law.

### **Response to Rules Clearinghouse Comments**

The Legislative Council Rules Clearinghouse made minor comments on the hearing draft rule. DATCP modified the final draft rule in response to the Rules Clearinghouse comments.

### **Fiscal Estimate**

This is a procedural rule that does not significantly alter current law or funding. This rule will not have any direct fiscal impact on DATCP or local units of government. A fiscal estimate is attached.

### Small Business Analysis

Continued legislative funding for the county drainage board grant program will help small business by clarifying drainage rights, preventing unnecessary drainage problems and disputes, and reducing the need for landowner drainage assessments. The Legislature has not yet committed funding beyond the fiscal year ending June 30, 2001.

This rule spells out procedures for the distribution of any grant funds that the Legislature provides. This rule is merely procedural, and by itself will have no significant effect on small business. A small business analysis ("final regulatory flexibility analysis") is attached.

**SUMMARY OF PUBLIC HEARING COMMENTS  
PROPOSED AMENDMENTS TO ATCP 48**

Public hearings were held on February 27 and 28, 2001, in Appleton and Jefferson, respectively. Everyone who presented oral testimony also submitted a written document of their comments.

**Oral Testimony**

| SPEAKER           | AFFILIATION                        | ISSUES/CONCERNS   | POSITION |
|-------------------|------------------------------------|---|----------|
| Kerry Blaney      | Brown Co. Treas.                   | All drainage boards should appoint their own treasurer. The county treasurer should not be involved with the drainage district money except to collect uncollected charges. A drainage board should be run like a utility or lake district board. | Opposed  |
| Alice Chmielewski | Landowner in drainage district     | The new code offers guidelines and clarification for drainage boards. It should be extended to allow for public access to drainage board records by requiring all drainage board records be filed with the zoning administrator.                  | Support  |
| Ed Brown          | Landowner in drainage district     | Consider additional language to require the county treasurer to make drainage board requested payments in a timely manner. The drainage board financial records must be available to public   | Support  |
| Alvin Wilks       | Racine County drainage board Chair | Allow the drainage board to run their own finances without the involvement of the county treasurer. The drainage board should have control over their funds if they choose. The county treasurer need not be involved with drainage board money.  | Opposed  |

**Written Comments**

| SUBMITTER         | AFFILIATION       | ISSUES/CONCERNS   | POSITION |
|-------------------|-------------------|---|----------|
| Ann Marie Vinopal | Juneau Co. Treas. | The drainage board should not be allowed to shift all the accounting and recordkeeping to the County Treasurer. County Treasurers don't have the time or staff to take on this extra work. There is not enough compensation allowed to cover the cost of the County Treasurer. The drainage districts should be like utility, sanitary, lake, or housing districts. | Opposed  |
| Elizabeth Majeski | Racine Co. Treas. | Because drainage districts are so different from other things done by the county treasurer, records have been mismanaged in the past. The drainage board treasurer should be allowed to handle all the drainage district accounting and recordkeeping since the county government has no say in controlling the money   | opposed  |

Roy Burton with the Outagamie County Land Conservation Department attended the hearing in Appleton but gave no testimony.

**PROPOSED ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND  
CONSUMER PROTECTION  
ADOPTING RULES**

- 1 The state of Wisconsin department of agriculture, trade and consumer protection
- 2 proposes the following order to create ATCP 48.49 and ATCP 48 subch. IX; and to
- 3 amend ATCP 48 subch. VII (title); relating to drainage district finances and grants to
- 4 county drainage boards.

---

**Analysis Prepared by the Department of  
Agriculture, Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 88.11 and 88.15(2), Stats.  
Statute Interpreted: ss. 88.15 and 88.18, Stats.

In the 1999-2001 biennial budget act (1999 Wis. Act 9), the Legislature created a state grant program to help county drainage boards comply with new legal requirements related to drainage districts. This rule implements that grant program. This rule also clarifies how county drainage boards must keep their drainage district accounts.

**Background**

Drainage districts are special purpose districts formed to drain land, primarily for agricultural purposes. Drainage districts control the flow of water in large areas of the state, and have a major impact on agriculture, land use and the environment. Some districts have been in existence since the 1880s. There are approximately 199 drainage districts located in 30 counties.

A county drainage board oversees all the drainage districts within each county. The Wisconsin department of agriculture, trade and consumer protection (DATCP) helps county drainage boards comply with state drainage laws, including ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code.



When a drainage district is created, the circuit court approves drainage district specifications that determine the rights and responsibilities of affected landowners. But many old drainage specifications are unclear, and some have been lost or destroyed. A lack of clear specifications can lead to costly problems and legal disputes.

### **New Legal Requirements**

Recent law changes require county drainage boards to update the specifications for all drainage districts. For each drainage district, a county drainage board must create a professional quality map set showing drainage district boundaries, drain alignments, drain cross-sections and drain grade profiles. Drainage boards must also develop plans to maintain drainage districts according to the updated specifications.

County drainage boards must assess drainage district landowners in order to pay for drainage district specifications, maintenance plans and other costs. Drainage boards must assess costs according to the benefits that landowners derive from the drainage district. In order to assess costs fairly, some county drainage boards may need to modernize their outdated assessments of landowner benefits.

### **Grant Program**

In the 1999-2001 biennial budget act, the Legislature provided grant funds to help county drainage boards meet their new legal responsibilities. The Legislature provided \$500,000 for the state fiscal year ending June 30, 2001, with a possibility of continued annual appropriations until June 30, 2006. From these appropriations, DATCP may award grants for 60% of eligible drainage board costs.

### **Initial Grants**

On September 15, 2000, DATCP awarded drainage board grants for the state fiscal year ending June 30, 2001. DATCP offered a total of just over \$450,000 to 12 county drainage boards. DATCP awarded grants for the following types of projects, in descending priority order:

- Drainage specifications (map sets).
- Drainage benefit reassessments.
- Drainage district maintenance plans.

If the Legislature continues to appropriate funds, DATCP will continue to award drainage board grants in future fiscal years. This rule establishes standards and procedures for the grant program.

## **County Drainage Board Accounts**

According to s. 88.18, Stats., the county treasurer must serve as treasurer of all drainage districts under the jurisdiction of the county drainage board. The county treasurer may deduct a portion of the interest earned on county drainage board accounts, to cover relevant costs incurred by the county treasurer and county zoning administrator. The county drainage board may appoint its own treasurer, who serves as deputy county treasurer. This rule clarifies the handling of county drainage board funds, to ensure proper documentation and accountability.

### **Rule Contents**

#### **Grants to County Drainage Boards; General**

Under this rule, DATCP may award grants to county drainage boards to help them comply with ch. 88, Stats., and ch. ATCP 48, Wis. Adm. Code. A grant may pay a county drainage board for up to 60 percent of the drainage board's costs to do any of the following:

- Develop and adopt drainage district specifications (map sets).
- Reassess benefits in a drainage district.
- Develop and adopt drainage district maintenance plans. (Grants do not pay for actual maintenance costs.)
- Carry out other eligible projects identified in DATCP's annual request for grant proposals.

#### **Annual Request for Grant Proposals**

Under this rule, DATCP must annually request grant proposals from county drainage boards. DATCP must issue its annual request, in writing, to each county drainage board. The request must include all the following:

- The amount of grant funds available for distribution in the grant year. Each grant year ends on June 30.
- The types of projects for which county drainage boards may request funding.
- DATCP's grant priorities, if any.
- General grant terms and conditions that may affect grant applications.
- Grant application procedures.
- A grant application deadline.
- A grant application form.

#### **Grant Applications**

To apply for a grant, a county drainage board must submit a completed grant application form that includes all the following:

- A description of the project for which the county drainage board seeks a grant.
- The estimated cost of the project.
- The county drainage board's plan for financing the project.
- Competitive bidding or other procedures that the county drainage board will use to control project costs.
- Other information required by DATCP.

### **Grant Awards**

Under this rule, DATCP must act on all grant applications within 90 days after the annual grant application deadline. DATCP must notify all grant applicants of its grant awards.

### **Grant Contracts**

Under this rule, DATCP must enter into a grant contract with each grant recipient. The contract must specify grant terms and conditions. DATCP must distribute grant funds according to the grant contract.

### **Grant Payments**

DATCP will make grant payments after the county drainage board documents that it has completed the funded project and paid its share of the project costs. DATCP will not pay any project costs incurred after the end of the grant term specified in the grant contract.

A county drainage board must submit a payment request on a form provided by DATCP. The county drainage board must document that it has completed the project and paid its share of the project costs.

DATCP will make grant payments to the county drainage board treasurer, for the benefit of the county drainage board. If the county drainage board hires an agent to complete a project on its behalf, DATCP may, at the request of the county drainage board, make a check jointly payable to the county treasurer and that agent.

### **County Drainage Board Treasurer**

Under s. 88.18, Stats., the county treasurer serves as the county drainage board treasurer unless the drainage board appoints its own treasurer. The county treasurer may keep a portion of the interest received on drainage district funds to cover county costs, as provided in s. 88.18(1), Stats.

A county drainage board may appoint its own treasurer, pursuant to s. 88.18(3), Stats. The appointed county drainage board treasurer acts as the deputy of the county treasurer. The county drainage board may assign any or all of the county treasurer's duties to the appointed treasurer.

Under this rule, if the county drainage board appoints its own treasurer, the drainage board must establish the treasurer's compensation in writing. The treasurer must be bonded as provided in s. 88.18(3), Stats.

This rule spells out the duties of a county drainage board treasurer (see below). Under this rule, if a county drainage board appoints its own treasurer, the county drainage board must enter into a written agreement with the appointed treasurer and the county treasurer. The agreement must do all the following:

- Identify the duties that the county drainage board has assigned to the appointed treasurer.
- Identify the duties, if any, that remain with the county treasurer.

### **Treasurer Duties**

Under this rule, the county drainage board treasurer must keep county drainage board accounts. The treasurer must keep a separate account for each drainage district, as required by s. 88.18(2), Stats.

The county drainage board treasurer must deposit, to the appropriate account, all funds received on behalf of the county drainage board or any drainage district. A person who receives funds on behalf of the county drainage board or any drainage district must promptly deposit those funds with the treasurer.

No person may make any expenditure from a county drainage board account unless the county drainage board treasurer signs the draft or specifically approves the expenditure in writing. The county drainage board must also approve the expenditure in writing.

A county drainage board treasurer must keep complete and accurate accounting records, including all the following:

- Records of all receipts and deposits. Records must identify the nature, source and amount of each receipt and deposit.
- Records of all expenditure authorizations and expenditures. Records must identify the purpose, recipient and amount of each expenditure.
- Current account balances.
- Monthly and annual reports summarizing revenues and expenditures during the reporting period, and account balances at the beginning and end of the reporting period.
- A copy of every grant contract that the department awards to the county drainage board under this rule.



1 on drainage district funds held by the county treasurer, to cover county costs identified  
2 under s. 88.18(1), Stats. The county treasurer may not retain an amount that exceeds the  
3 amount authorized under s. 88.18(1), Stats.

4 **NOTE:** Section 88.18(1), Stats., authorizes the county treasurer to deduct the  
5 following county costs from the interest received on drainage district  
6 funds:

- 7
- 8 • The county treasurer's cost to provide services to the county  
9 drainage board.
- 10 • The county zoning administrator's cost to maintain and provide  
11 copies of drainage board records under s. 88.19, Stats.  
12

13 (2) APPOINTED TREASURER. (a) A county drainage board may appoint its own  
14 treasurer, pursuant to s. 88.18(3), Stats. The appointed county drainage board treasurer  
15 shall act as the deputy of the county treasurer. The county drainage board may assign  
16 any or all of the county treasurer's duties under this section to the appointed county  
17 drainage board treasurer. The appointed treasurer shall comply with applicable  
18 requirements under ch. 88, Stats., and this chapter.

19 (b) If the county drainage board appoints its own treasurer under par. (a), the  
20 county drainage board shall:

21 1. Specify the treasurer's compensation in writing. Compensation shall include  
22 reimbursement of the treasurer's actual and reasonable expenses, as provided in s.  
23 88.18(3), Stats.

24 2. Require the treasurer to file a bond as provided in s. 88.18(3), Stats.

25 (c) If the county drainage board appoints its own treasurer under par. (a), the  
26 county drainage board shall enter into a written agreement with the appointed treasurer  
27 and the county treasurer. The agreement shall do all the following:

1           1. Identify the duties under this section that the county drainage board has  
2 assigned to the appointed treasurer.

3           2. Identify the duties under this section, if any, that remain with the county  
4 treasurer.

5           (3) COUNTY DRAINAGE BOARD ACCOUNTS. The county drainage board treasurer  
6 shall keep county drainage board accounts. The treasurer shall keep a separate account  
7 for each drainage district as required by s. 88.18(2), Stats.

8           (4) DEPOSITS. The county drainage board treasurer shall deposit, to the  
9 appropriate account under sub. (3), all funds received on behalf of the county drainage  
10 board or any drainage district. A person who receives funds on behalf of the county  
11 drainage board or any drainage district shall promptly deposit those funds with the county  
12 drainage board treasurer.

13           (5) EXPENDITURES. (a) No person may make any expenditure from a county  
14 drainage board account under sub. (3) unless the county drainage board treasurer signs  
15 the draft or specifically approves the expenditure in writing.

16           (b) Except as provided in sub. (1)(b), the county drainage board treasurer may not  
17 approve any expenditure under par. (a) unless the county drainage board also approves  
18 that expenditure in writing.

19           (6) ACCOUNTING RECORDS. A county drainage board treasurer shall keep  
20 complete and accurate accounting records, and supporting documentation, for county  
21 drainage board accounts under sub. (3). Records shall include all the following:

22           (a) Records of all receipts and deposits. Records shall identify the nature, source  
23 and amount of each receipt and deposit.

1 (b) Records of all expenditure authorizations and expenditures. Records shall  
2 identify the purpose, recipient and amount of each expenditure.

3 (c) Current account balances.

4 (d) Monthly and annual reports summarizing revenues and expenditures during  
5 the reporting period, and account balances at the beginning and end of the reporting  
6 period.

7 (e) A copy of every grant contract under s. ATCP 48.60(5).

8 (7) RECORDS KEPT AS PUBLIC RECORDS. The county drainage board treasurer  
9 shall do all the following:

10 (a) Keep the records under sub. (6) as county public records. Except as provided  
11 in ch. 88, Stats., or this chapter, the county drainage board treasurer shall treat the records  
12 as the county treasurer would treat comparable county accounting records for retention  
13 and disposal purposes.

14 (b) Keep the records under sub. (6) in the office of the county treasurer, or in  
15 another place that the county treasurer approves in writing.

16 (c) Make the records under sub. (6) available for public inspection and copying,  
17 as provided in subch. II of chapter 19, Stats.

18 (8) CONTROL AND AUDIT. The county drainage board treasurer shall do all the  
19 following:

20 (a) Exercise sound fiscal control over funds received, to prevent misappropriation  
21 or misdirection of funds.

22 (b) Account for all funds received and expended.



1 (c) File periodic accountings with the county drainage board, as requested by the  
2 board.

3 (d) Make records and accounts available, upon request, for audit by the state of  
4 Wisconsin, the county drainage board or the county.

5 **SECTION 3.** Subchapter IX of chapter ATCP 48 is created to read:

6 **SUBCHAPTER IX**

7 **GRANTS TO COUNTY DRAINAGE BOARDS**

8 **ATCP 48.60 Grants to county drainage boards. (1) GENERAL.** From the  
9 appropriation under s. 20.115(7)(d), Stats., the department may award grants to county  
10 drainage boards to help those boards comply with ch. 88, Stats., and this chapter. The  
11 department shall award grants in each state fiscal year, subject to available funding. A  
12 grant may reimburse a county drainage board for up to 60 percent of the drainage board's  
13 costs to do any of the following:

14 (a) Develop and adopt drainage district specifications required under s. ATCP  
15 48.20.

16 (b) Reassess benefits in a drainage district. The reassessment shall comply with  
17 ss. ATCP 48.02 to 48.10.

18 (c) Develop and adopt drainage district maintenance plans under s. ATCP 48.22.

19 **NOTE:** A grant under par. (c) may be used only for maintenance plans, not  
20 actual maintenance costs.

21  
22 (d) Other eligible projects that the department identifies in its annual request for  
23 grant proposals under sub. (2).

24 (2) ANNUAL REQUEST FOR GRANT PROPOSALS. Before the department awards any  
25 grant under sub. (1) in any state fiscal year, the department shall publish an annual

1 request for grant proposals and shall provide a copy to every county drainage board. The  
2 annual request for grant proposals shall include all the following:

3 (a) The amount of grant funds available for distribution in that state fiscal year  
4 ending June 30.

5 (b) Eligible project categories under sub. (1).

6 (c) The department's grant priorities, if any.

7 (d) The method that the department will use to allocate funds between competing  
8 grant proposals of equal priority, if it cannot fully fund all of those proposals.

9 **NOTE:** For example, the department may fund equally rated grant proposals on a  
10 "first come, first served" basis.

11 (e) General grant terms and conditions that may affect grant applications.

12 (f) Grant application procedures.

13 (g) A grant application deadline.

14 (h) A grant application form.

15 **NOTE:** Copies of a grant application form may be obtained from the department  
16 at its offices at 2811 Agriculture Drive, Post Office Box 8911, Madison,  
17 WI 53708-8911.

18 (3) GRANT APPLICATIONS. A county drainage board may apply for a grant under  
19

20 sub. (1). The county drainage board shall make the grant application on a form that the  
21 department provides under sub. (2)(h). The grant application shall be broken down by  
22 drainage district, and shall include all the following:  
23

24 (a) A description of each drainage district project for which the county drainage  
25 board seeks a grant.

26 (b) The estimated cost of the project.

27 (c) The county drainage board's plan for financing the project.

1 (d) Competitive bidding or other procedures that the county drainage board will  
2 use to control project costs.

3 **NOTE:** A county drainage board is not required to select the low bidder for a  
4 funded project. But the department may make its grant award and  
5 payments based on the low bid cost.  
6

7 (e) Other information required by the department.

8 (4) GRANT AWARDS. Within 90 days after the grant application deadline under  
9 sub. (2)(g), the department shall make its grant awards. The department shall give notice  
10 of its awards to all county drainage boards that applied for grants.

11 (5) GRANT CONTRACTS. Before the department pays any grant funds to a county  
12 drainage board, the department shall enter into a grant contract with that county drainage  
13 board. The contract shall specify the time period and other terms and conditions of the  
14 grant. The department shall make grant payments according to sub. (6) and the grant  
15 contract.

16 (6) GRANT PAYMENTS. (a) The department shall make grant payments after the  
17 county drainage board completes the funded project and pays its share of the project  
18 costs. The department may not pay for any project cost incurred after the end of the grant  
19 period specified in the grant contract.

20 (b) The county drainage board shall submit a payment request on a form provided  
21 by the department. In its request, the county drainage board shall document that it has  
22 completed the project and paid its share of the project costs.

23 **NOTE:** Copies of a payment request form may be obtained from the department  
24 at its offices at 2811 Agriculture Drive, Post Office Box 8911, Madison,  
25 WI 53708-8911.  
26

1 (c) The department shall make grant payments to the county treasurer, for the  
2 benefit of the county drainage board. If the county drainage board hires an agent to  
3 complete a project on its behalf, the department may, at the request of the county  
4 drainage board, make a check jointly payable to the county treasurer and that agent.

5 **EFFECTIVE DATE.** The rules contained in this order shall take effect on the  
6 first day of the month following publication in the Wisconsin administrative register, as  
7 provided under s. 227.22(2)(intro), Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION**

\_\_\_\_\_  
James E. Harsdorf, Secretary

FISCAL ESTIMATE

DOA-2048 (R 10/94)

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB or Bill No. / Adm. Rule No.  
ch. ATCP 48

Amendment No. (If Applicable)

Subject:

Drainage District Program

Fiscal Effect

State:  No State Fiscal Effect

Check below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs -  
 May be possible to absorb within agency's budget?  Yes  No  
 Decrease Costs

Local:

No local government costs  
 1.  Increase Costs       Permissive  Mandatory  
 2.  Decrease Costs       Permissive  Mandatory  
 3.  Increase Revenues       Permissive  Mandatory  
 4.  Decrease Revenues       Permissive  Mandatory

5. Types of Local Gov. Unit Affected:

Towns       Villages  
 Counties       Cities  
 Other: County Drainage Boards  
 School Districts  
 WTCS Districts

Fund Source Affected:

GPR     FED     PRO     PRS     SEG     SEG-S

Affected Ch. 20 Appropriations:  
20.115(7)(d)

Assumptions Used in Arriving at Fiscal Estimate

**NOTE:** This fiscal estimate assumes that there are about 200 drainage districts in 30 Wisconsin counties which are required to comply with this rule. The proposed revisions to the rule further clarify that the County Treasurer - as drainage board treasurer - must handle drainage board grants provided by the department, rather than a drainage board deputy treasurer.

**Impact of Rule Revision to State Government**

Chapter ATCP 48 is administered by the Department of Agriculture, Trade and Consumer Protection (DATCP). The proposed rule revisions codify a cost-share grant program intended to distribute as much as \$500,000 per year for a maximum of six years to county drainage boards. Administration of these grants will be handled by existing DATCP staff. The DATCP will experience some increase in costs associated with WISMART charges and other miscellaneous administrative expenses, such as postage; however, these administrative costs will be minimal and will be absorbed by the DATCP. Funds provided by the Legislature for this program are in a new general purpose revenue appropriation.

**Impact of Rule Revision to County Drainage Boards**

Funds provided by the DATCP will go directly to county drainage boards to pay 60% cost-sharing for eligible expenses associated with the development of district specifications, benefits reassessment, and compliance (maintenance) plans. The availability of these funds will encourage drainage boards to proceed with this work as the grant funds greatly reduce the financial burden on drainage district landowners. District landowners will be assessed by the drainage board for the remaining 40% of eligible project expenses.

**Long - Range Fiscal Implications**

Sec. 88.15(3), Wis. Stats., indicates that the DATCP may not make grants under this section after June 30, 2006. Therefore, if Legislative funding continues uninterrupted for six years total, \$3.0 million will be available to assist county drainage boards to comply with ch. ATCP 48.

Agency/prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

DATCP  
Steve Struss, ph. 608-224-4629

*Barbara Knapp*  
Barbara Knapp, ph. 608-224-4746

Nov. 2, 2000

FISCAL ESTIMATE WORKSHEET

2000 SESSION

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

|   |               |
|---|---------------|
| LRB or Bill No/Adm. Rule No.<br>ch. ATCP 48 | Amendment No. |
|---|---------------|

SUBJECT  
DRAINAGE DISTRICTS

I. One-time Cost or Impacts for State and/or Local Government (do not include in annualized fiscal effect):  
*Costs are recurring; see below.*

II. Annualized Cost:

Annualized Fiscal Impact on State funds from:

A. State Costs by Category

| Increased Costs | Decreased Costs |
|-----------------|-----------------|
| \$ 9,600        | \$ - 0          |
| (0.10 FTE)      | (-0 FTE)        |
| 300             | - 0             |
| 500,000         | - 0             |
| 0               | - 0             |
| \$ 509,900      | \$ - 0          |

1. State Operations - Salaries and Fringes

*[Department staff time to: develop grant application forms, instructions, and reimbursement request forms; conduct grant writing training sessions; assist engineering consultants; review grant application; prepare grant award summary; prepare annual grant contracts and transmittal letters; review reimbursement request forms; issue payments.]*

2. (FTE Position Changes)

3. State Operations - Other Costs

*[Phone, e-mail, internet access, postage, paper, printer use and toner, copier use and toner, and envelope costs related to staff activities identified above.]*

4. Local Assistance

5. Aids to Individuals or Organizations

TOTAL State Costs by Category

B. State Costs by Source of Funds

1. GPR

2. FED

3. PRO/PRS

4. SEG/SEG-S

III. State Revenues -

Complete this section only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fees)

• GPR Taxes

• GPR Earned

• FED

• PRO/PRS

• SEG/SEG-S

TOTAL State Revenues

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$ 500,000

\$ 0

NET CHANGE IN REVENUES

\$ 0

\$ 500,000

Agency Prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

DATCP  
Steve Struss, ph. 608-224-4629

*Barbara Knapp*  
Barbara Knapp (608) 224-4746

Nov. 2, 2000

STATE OF WISCONSIN

DEPARTMENT OF AGRICULTURE, TRADE & CONSUMER PROTECTION

Final Regulatory Flexibility Analysis

Proposed Revisions to Chapter ATCP 48, Wis. Adm. Code  
(Drainage Districts)

Scope of the Rule

The proposed revision of Chapter ATCP 48, Wis. Adm. Code, will have a positive impact on small businesses. The revision codifies a newly instituted cost-share grant program designed to assist drainage boards with producing specific work products, which will in turn improve their management of drainage districts. It establishes the process and timelines for drainage boards to apply and receive grant funds. These funds are specifically intended to reduce the financial burden on drainage district landowners, as it is the landowners who finance compliance with existing rule requirements. Items that may be cost-shared include the development of:

1. District Specifications (including detailed maps)
2. Benefits Reassessments
3. Compliance (maintenance) Plans

The rule revision also establishes County Treasurers as the official treasurers for all drainage board financial matters. A drainage board may appoint a deputy treasurer to assist the County Treasurer with management of drainage board fiscal matters, but it is the county treasurer who is responsible for retention of all grants-related documents.

Businesses Affected

The small businesses affected by the rule revision include engineering consulting firms and others who will be hired by county drainage boards to produce the specific work products. Additionally, farms and agricultural food processors whose lands lie within the boundaries of drainage districts will benefit from the cost-sharing to be provided; as members of the drainage district, their financial burden will be reduced by 60 percent. It is estimated that there are 199 drainage districts located in 30 Wisconsin counties. Currently, 24 counties have drainage boards in place. Only drainage boards may request grant funds from the department.

Fiscal Impact

Small businesses in drainage districts will experience a positive fiscal impact from this rule revision as drainage boards are provided financial assistance to comply with existing rule provisions. This rule revision provides up to \$500,000 per year for six years in cost-share assistance. Prior to this revision, small businesses located within drainage districts would have borne the entire cost of complying with ch. ATCP 48 requirements.

Prior to this revision, a very small percentage of drainage boards took the initiative to produce drainage district specifications and compliance (maintenance) plans required by ch. ATCP 48. Most drainage boards considered the cost of complying with the rule to be too great a burden on district landowners. It is anticipated that this cost-share assistance will greatly reduce that burden and, thereby, encourage greater compliance with the rule. It is estimated that this funding will allow about ten drainage boards to produce work products for a total of 40 districts each year. At this pace, it is anticipated that all districts may be assisted over the six-year life of the grants.


Recordkeeping

The proposed rule revision will not impose any new recordkeeping requirements on small businesses. A few new recordkeeping requirements are required of county treasurers and drainage boards members.

Professional Skills Required to Comply

Small businesses will not need to acquire any new skills -- or retain additional professional services -- to comply with the rule revisions.

Dated this 7th day of May, 2001.

By   
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Agricultural Resource Management Division